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Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07
EA-09 FRB-01 INR-07 IO-13 NEA-10 NSAE-00 USIA-15
OPIC-06 SP-02 TRSE-00 CIEP-02 LAB-04 SIL-01 AGRE-00
OMB-01 AF-08 ARA-10 SS-15 NSC-05 L-03 H-02 PA-02
PRS-01 DHA-02 NSF-02 OES-06 EURE-00 /153 W
---------- 048016
P R 082042Z DEC 76
FM USMISSION OECD PARIS
TO SECSTATE WASH DC PRIORITY 4629
INFO AMCONSUL STRASBOURG

UNCLAS SECTION 01 OF 02 OECD PARIS 36381

PASS: NBS, OTP, COMMERCE/OT, NSF, OES FOR CRAWFORD SCI-

E.O. 11652: N/A
TAGS: TGEN, OECD
SUBJECT: OECD/CSTP: MEETING OF DATA BANK PANEL, 12/2-3/76

1. SUMMARY: MEETING ATTENDED BY REPS FROM AUSTRIA, AUSTRALIA (PERMDEL), BELGIUM, CANADA, DENMARK, FINLAND, FRANCE, GERMANY, JAPAN (PERMDEL), NETHERLANDS, NORWAY, SPAIN, SWEDEN (CHAIRMAN), U.K., YUGOSLAVIA, U.S. (PERM-DEL), OBSERVERS PRESENT FROM COUNCIL OF EUROPE, EUROPEAN PARLIAMENT, AND EUROPEAN COMMUNITIES. MAJOR ITEM WAS DISCUSSION OF POSSIBLE INTERNATIONAL AGREEMENT ON TRANS-BORDER DATA FLOW, TO BE WORKED OUT IN CLOSE COOPE-RATION WITH COUNCIL OF EUROPE. END SUMMARY.

2. AFTER INTRODUCTORY' STATEMENTS AND A ROUND-TABLE ON COUNTRY SITUATIONS, THE MEETING TACKLED THE ITEM CONCER-NED WITH THE PRINCIPLES AND GUIDELINES FOR TRANSBORDER DATA FLOW AND DATA PROTECTION. THE SECRETARIAT'S BACK-GROUND PAPER, DSTI/CUG/76.36, WAS WELL-RECEIVED AS A POINT OF DEPARTURE. SEVERAL CHANGES WERE PROPOSED IN BOTH CONTENT AND PRESENTATION, AND IN PARTICULAR PARA V (D) ON PAGE 8, (DAMAGES) WAS DELETED. THE SECRETARIAT WILL REVISE THE PAPER IN ACCORDANCE WITH THE COMMENTS OF THE PANEL.
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3. FROM THE INTRODUCTORY DISCUSSION OF COUNTRY STATUS ON DATA PROTECTION, IT IS CLEAR THAT NEARLY ALL OECD MEMBER-COUNTRIES ARE NOW INVOLVED IN LEGISLATING OR PREPARING LEGISLATION ON THE PROTECTION OF DATA. APART FROM THE US, THE SITUATION AS REPORTED TO THE PANEL IS AS FOLLOWS : AUSTRALIA: AUSTRALIAN LAW REFORM COMMISSION AT WORK, AUSTRIA: DATA PROTECTION BILL IS PRESENTLY BEING DISCUSSED IN PARLIAMENT, BELGIUM: BILL ON THE PROTECTION OF PRIVACY OF 1975, CANADA: CANADIAN HUMAN RIGHTS BILL (PART 4:PROTECTION OF PERSONAL INFORMATION) FIRST READING NOV. 1976, DENMARK: COMMISSION REPORT WILL BE FINISHED EARLY IN 1977, BILL WILL BE PRESENTED TO PARLIAMENT LATER IN 1977, FINLAND: NEW INTERMINISTERIAL WORKING GROUP ON DATA PROTECTION, FRANCE: COMMISSION "INFORMATIQUE ET LIBERTE", REPORT PUBLISHED IN 1975, BILL DEPOSITED TO PARLIAMENT:WILL BE DISCUSSED IN FEB/ MARCH 1977, GERMANY: FEDERAL DATA PROTECTION ACT (WILL COME INTO FORCE JAN 1, 1978), JAPAN: REPORT BY COMMIS- SION ON DATA PROTECTION PUBLISHED IN 1975, LUXEMBURG: GOVERNMENTAL WORKING GROUP FOR PREPARATION OF LEGISLATION DRAFT BILL ON DATA PROTECTION EXPECTED TO BE INTRODUCED TO PARLIAMENT EARLY IN 1977, NETHERLANDS: GOVERNMENT COMMITTEE PUBLISHED REPORT IN NOVEMBER 1976, NEW DATA PROTECTION BILL TO BE DISCUSSED IN PARLIAMENT IN 1977, NORWAY: TWO COMMISSION REPORTS 1975/1975, PRIVACY BILL WILL BE FINISHED BY FEB. 1977. DISCUSSED BY PARLIAMENT SPRING 1977, SPAIN: PRELIMINARY DRAFT BILL, MID-1977, SWEDEN: COMMISSION TO EVALUATE THE DATA ACT, 1. DATA ACT, 2. CREDIT INFORMATION ACT, U.K.: DATA PROTECTION COMMITTEE AT WORK, YUGOSLAVIA: REGIONAL BILL FOR SLO- VENIA IS EXPECTED EARLY IN 1977.

4. THE COUNCIL OF EUROPE IS MOVING AS RAPIDLY AS POSSIBLE TO PRESENT A FIRST DRAFT OF AN INTERNATIONAL CONVENTION COVERING THE PROTECTION OF PERSONAL DATA. THIS SHOULD BE READY BY THE FALL OF 1977, AND C OF E WORKING PARTIES HAVE BEEN ESTABLISHED TO THIS END. NON-MEMBERS OF THE C OF E ARE INVITED TO PARTICIPATE. THE MISSION STRONGLY RECOMMENDS THAT THE US BE ADEQUATELY REPRESENTED NOT ONLY AT SUCH MEETINGS, BUT ALSO IN THOSE THAT WILL
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UNDOUBTEDLY BE HELD IN THE OECD, PROBABLY JOINTLY WITH C OF E AND EEC REPRESENTATIVES.

5. THE SECRETARIAT ON SEVERAL OCCASIONS MANIFESTED EAGERNESS TO IMMEDIATELY INVOLVE THE DATA BANK PANEL IN THE ELABORATION OF A DRAFT OECD-WIDE LEGAL AGREEMENT, EVIDENTLY BASED ON A READILY-AVAILABLE C OF E DRAFT. THE US, HOWEVER, WITH STRONG SUPPORT BY THE U.K., CANADA,

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AUSTRALIA AND FRANCE, FIRMLY RESISTED THESE EFFORTS ON
THE GROUNDS THAT (A) THE CSTP HAD ALREADY TAKEN A

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PRS-01 DHA-02 NSF-02 OES-06 EURE-00 /153 W
---------- 047922
P R 082042Z DEC 76
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DECISION THAT THE PROBLEM OF HARMONIZING NATIONAL LEGIS-
LATION IN THE FIELD OF DATA PROTECTION WAS IN FACT BEYOND
ITS OWN COMPETENCE, AND THAT OECD ACTION WOULD OF
NECESSITY BE BY A GROUP SPECIALLY MANDATED FOR THIS PUR-
POSE BY THE COUNCIL, TO WORK IN CLOSE COOPERATION WITH
THE COUNCIL OF EUROPE AND THE EEC (B) THE SUBSTANTIVE
ISSUES REQUIRED IDENTIFICATION AND ANALYSIS BY A COMPE-
TENT GROUP OF EXPERTS PRIOR TO EMBARKING ON LEGAL FOR-
MULATION. IN PARTICULAR, ONE OF THE MAIN ISSUES -IF NOT
THE MAIN ISSUE- WOULD SEEM TO BE TO ENSURE A CONTINUOUS
FLOW OF DATA AMONG COUNTRIES UNHAMPERED BY OVER-RESTRIC-
TIVE LEGISLATION AND THAT (C) IN THIS RESPECT THE ISSUE
OF TRANSBORDER FLOW OF PERSONAL DATA, ALTHOUGH OF VERY
HIGH PRIORITY, COULD NOT BE SEPARATED FROM THE BROADER
ISSUES OF TOTAL DATA FLOW WITHOUT RUNNING THE RISK OF
DISTORTING THE INTENTION OF AN INTERNATIONAL AGREEMENT
WITH A PROBABLE NEGATIVE EFFECT ON ITS ACCEPTABILITY.
IN THIS RESPECT, THE US CONCLUDED, CLOSE COOPERATION
AMONG THE ORGANIZATIONS CONCERNED -C OF E, EEC, OECD-
WOULD HAVE A BETTER CHANCE OF ARRIVING AT AN EFFECTIVE

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AGREEMENT COMPATIBLE WITH THE WIDER MEMBERSHIP OF THE
OECD THAN WOULD SEPARATE ACTION BY THE THREE BODIES
CONCERNED.

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6. AFTER SOME TO AND FRO ON THE ABOVE THEMES, THE
CANADIAN REP (KATZ) VOLUNTEERED TO DRAFT A SHORT ACTION
REQUEST TO THE CSTP. THIS WAS DISCUSSED, AMENDED, AND
APPROVED FOR SUBMISSION TO THE CSTP AT ITS JANUARY MEET-
ING. THE OPERATIVE PARAGRAPHS ARE QUOTE: THE DATA BANK
PANEL--- 3. PROPOSES THE FOLLOWING STEPS FOR ACTION IN
1977--- 3(I) IN ACCORDANCE WITH THE 1977 PROGRAM OF THE
ORGANIZATION, AND IN CLOSE COOPERATION WITH THE C OF E
AND THE EEC, TO UNDERTAKE THE REQUIRED ANALYSIS OF THE
ISSUES AND PROBLEMS THAT ARISE FROM THE TRANSBORDER
MOVEMENT OF DATA, WITH A VIEW TO ELABORATING OPTIONS FOR
CONCRETE ACTION BY OECD MEMBER-COUNTRIES TO RESPOND TO
SUCH PROBLEMS, (INCLUDING THE POSSIBILITY OF AN INTER-
NATIONAL AGREEMENT), AND TO SUBMIT ITS REPORT AS SOON AS
POSSIBLE (DEADLINE TO BE SPECIFIED). 3(II) TO INFORM THE
COUNCIL OF THE SIGNIFICANCE OF THE MANY DIMENSIONS OF
POLICY ISSUES ATTACHED TO TRANSBORDER DATA FLOWS, SO THAT
MEMBER-COUNTRIES ARE MADE AWARE OF THE IMPORTANCE OF THIS
UNDERTAKING. END QUOTE.

7. IN ADDITION IT WAS AGREED TO HOLD THE SYMPOSIUM ON
THE SUBJECT, AS PROPOSED IN DSTI/CUG/76.37, BUT WITH
SIGNIFICANT CHANGES IN THE PURPOSE AND STRUCTURE AS
DESCRIBED IN SECTIONS II AND V RESPECTIVELY. IN SECTION
II (PURPOSE), THE FIRST SENTENCE OF PARA (III) WAS
DELETED. THERE WILL BE NO ATTEMPT TO ARRIVE AT CONCLU-
SIONS ABOUT THE NATURE AND SCOPE OF AN INTERNATIONAL
AGREEMENT. IN SECTION V (STRUCTURE), THE PANEL DELETED
PARA (II), WHICH CALLED
FOR THE PROPOSING AND DECIDING OF INTERNATIONAL AGREE-
MENTS BY FOREIGN AFFAIRS AND OTHER APPROPRIATE OFFICIALS.
SUGGESTED DATES : SEP 6-8, 1977. THE DATA BANK PANEL WILL
ACT AS STEERING GROUP TO PREPARE THE SYMPOSIUM.

8. DATES: (A) FEB 3-4, 1977. WORKING PARTY OF VOLUNTEERS
TO REVISE CONSULTANT'S DRAFT OF ANALYSIS OF ISSUES PER
PARA 6 ABOVE, (B) MAY 11-12, 1977. MEETING OF DATA BANK
PANEL, (C) SEPT 6-8, 1977. SYMPOSIUM, FOLLOWED BY
EVALUATION MEETING OF DATA BANK PANEL SEPT. 9.

9. MEETING DOCUMENTS AIRPOUCHED TO DEPARTMENT (CRAWFORD,
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DATA, COMMITTEE MEETINGS, MEETING REPORTS, BORDER CONTROLS, INFORMATION CONTROL
Control Number: n/a
Copy: SINGLE
Draft Date: 08 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976OECDP36381
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760454-0077
From: OECD PARIS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761262/aaaacbmf.tel
Line Count: 228
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: wolfsd
Review Comment: n/a
Review Content Flags:
Review Date: 02 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 JUN 2004 by hattaycs>; APPROVED <04 AUG 2004 by wolfsd>
Review Markings:

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Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: OECD/CSTP: MEETING OF DATA BANK PANEL, 12/2-3/76
TAGS: TGEN, OECD
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006